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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,397	02/20/2002	Bernarr C. Schaeffer		6716

7590 06/27/2003
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EXAMINER

FASTOVSKY, LEONID M

ART UNIT	PAPER NUMBER
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3742

DATE MAILED: 06/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/079,397

Applicant(s)

SCHAEFFER ET AL.

Examiner

Leonid M Fastovsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 7-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-6 and 26, drawn to a sauna, classified in class 392, subclass 416.
 - II. Claims 7-18 and 21, drawn to an infrared heater, classified in class 392, subclass 435.
 - III. Claims 19-20, drawn to a method of sweating a person, classified in class 4, subclass 524.
 - IV. Claims 22-25, drawn to an extremely-low-frequency electro-magnetic-field power wiring, classified in class 600, subclass 9.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I, II, III and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are unrelated because they have different modes of operations and different functions, specifically, group I discloses a sauna, group II discloses an infrared heater, group III discloses a method of sweating, and group IV discloses an extremely-low-frequency electro-magnetic-field wiring.
3. During a telephone conversation with Mr. J. Taphorn on 6/24/03 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-6 and 26. Affirmation of this election must be made by applicant in replying to this Office

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action. Claims 7-25 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Drawings

3. New corrected drawings are required in this application because the submitted drawings were informal. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Kyowa Denki (JP2003051368).

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Kyowa Denki teaches a compact sauna (Figures 1-5) with infrared heaters disposed in closed proximity to the user, infrared elements are planar, and protrusions 12 on the elements project outwards toward the user.

6. Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by Perett (2002/0046422).

Perett teaches a compact sauna 10 (Figures 1-6) with infrared heaters (22 and 68) disposed in closed proximity to the user, infrared elements are planar.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kyowa Denki in view of Clark (6,142,927).

Kyowa Denki teaches a compact sauna (Figures 1-5) with infrared heaters disposed in closed proximity to the user, infrared elements are planar, and protrusions 12 on the elements project outwards toward the user. Clark discloses an extremely-low-frequency electromagnetic fields (Col. 4, Table 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use an extremely-low-frequency electromagnetic fields as taught by Clark to improve performance of the sauna.

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9. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kyowa Denki in view of Henschenp et al (5,059,756) and further in view of Grise et al (4,485,297).

Kyowa Denki teaches a compact sauna (Figures 1-5) with infrared heaters disposed in closed proximity to the user, infrared elements are planar, and protrusions 12 on the elements project outwards toward the user. Henschenp et al discloses that current flow through the heater in opposite directions (Col. 7, lines 30-40). Grise et al shows a plurality bars 18, and a pair 14 of longitudinal stripes., and a metallic conductor overlaying each stripe. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use current flowing in opposite directions as taught by Henschenp et al and bars, stripes and conductors as taught by Grise et al to improve performance of the sauna.

10. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kyowa Denki in view of Henschenp, in view of Grise et al and further in view of Wiseman et al (6,043,471).

Kyowa Denki in view of Henschenp and Grise teaches a compact sauna (Figures 1-5) with infrared heaters disposed in closed proximity to the user, infrared elements are planar, and protrusions 12 on the elements project outwards toward the user, current flow in opposite directions, and bars, stripes and metallic conductors, but does not teach a current at 180 degree out of phase. Wiseman et al discloses current flowing at 180 degree out of phase (Col. 6, lines 1-20). It would have been obvious to one having


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ordinary skill in the art at the time the invention was made to use current flowing at 180 degree out of phase as taught by Wiseman et al to improve performance of the sauna.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid M Fastovsky whose telephone number is 703-306-5482. The examiner can normally be reached on M-Th. 8.00 am -6.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on 703-3081327. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0861.



Leonid M Fastovsky
Examiner
Art Unit 3742

Imf
June 24, 2003